



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration

RECEIVED

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JAN 13 1995

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A.P.W.A.

Ms. Donna Checkett
Chair
State Medicaid Director's Association
810 First Street, NE
Suite 500
Washington, D.C. 20002-4205

Dear Ms. Checkett:

I am writing in response to your letter of October 28, 1994. In that letter you raised several questions regarding the disproportionate share hospital (DSH) provisions contained in section 13621 of the Omnibus Budget Reconciliation Act of 93 (OBRA 93). I will answer the questions in the order you posed them.

Question 1: You asked whether costs relating to individuals who have insurance coverage that fails to fully cover the costs of a particular service because the insurance coverage is limited by a per diem cap or coverage limitations, could qualify as costs of charity care for the purposes of calculating the DSH payment limit.

Answer: Section 1923(g)(1)(A) of the Social Security Act (the Act), as added by section 13621 of OBRA 93, refers to costs incurred during the year for furnishing hospital services to individuals who have no health insurance. As we explained in our August 17, 1994, State Medicaid Director's letter concerning the OBRA 93 DSH provisions, for the purpose of determining uninsured patients, it would be permissible for States to include in their determination of uninsured patients those individuals who do not possess health insurance which would apply to the service which the individual sought. However, if an individual has insurance coverage for the service provided, but the full cost of the service was not reimbursed because of per diem caps or coverage limitations, the unreimbursed costs of the services furnished to that insured individual would not be included as charity care in the calculation of the DSH payment limit.

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Question 2: You asked whether, in accordance with section 1923(g)(1) of the Act, it would be appropriate to simply net current payments received from uninsured patients against current year costs incurred (even though it could be a different set of uninsured patients).

You explain that to require a matching of uninsured costs to revenues relating to uninsured services for a particular year would be a tedious task that would require continual recalculations based on subsequent years collections of prior year uncollectibles.

Answer: Section 1923(g)(1) of the Act refers to "costs incurred during the year for hospital services provided during the year, net of payments received for those services." It is our belief that this language indicates that Congress intended States to match costs for hospital services provided during a particular year to payments received relating to those services provided for a particular year. Therefore, it would not be appropriate to simply net current payments received from uninsured patients against current year costs, since this would distort the matching concept implied by the statute. However, for the purpose of matching uninsured services costs for a particular year to revenue receipts relating to uninsured services for a particular year, it would be appropriate for the State to estimate the amount it expects to collect for uninsured services for a particular year. For purposes of determining this estimated amount, the State must use the best data available. Use of an estimated amount of revenues relating to uninsured services for a particular year would alleviate the need for a State to make continual recalculations of the DSH limits based on subsequent years collections of prior year uncollectibles, as you suggested. It is important to note that States have flexibility in developing the methods and standards described in its State plan to specify whether it will use estimated amounts of revenues pertaining to uninsured services, or will make retroactive settlements based on recalculations of actual revenues received for uninsured services.

Question 3: You asked whether States could use the current fiscal year as the base year for determining DSH payments.

Answer: Yes, this is acceptable as long as the State plan specifies that the current fiscal year is the base year, and that all relevant data pertaining to the current fiscal year is used to determine the DSH payment amounts.

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Question 4: Finally, you asked whether an individual DSH limit must be applied for each hospital, or whether an aggregate limit may be used, consistent with Medicare cost principles. The DSH limit described in section 1923(g)(1) of the Act is hospital-specific. We believe the language in this section which refers to DSH payment adjustments with respect to a hospital is a clear indication that this limit is a hospital-specific limit. The DSH limit described in section 1923(g)(1) of the Act is different from the Medicare upper payment limit imposed by section 1902(a)(30) of the Act and the implementing regulations at 42 CFR 447.272. The Medicare upper payment limit described at 42 CFR 447.272 is an aggregate limit that does not apply to DSH payments. Paragraph (c) of 42 CFR 447.272 sets forth the limits applicable to DSH payments. We intend to revise this paragraph to incorporate the hospital-specific DSH limits imposed by section 1923(g)(1) of the Act when we issue DSH regulations.

I hope the above information is responsive to your questions. If you need further information, please feel free to contact me.

Sincerely,



Sally K. Richardson
Director
Medicaid Bureau